



"Gateway to the Santa Monica Mountains National Recreation Area"

September 13, 2010

Submitted via overnight mail and e-mail

Mr. Sam Unger, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California 90013

ATTN: Stefanie Hada

Subject: Santa Monica Bay Debris TMDL
Comment Letter

Dear Mr. Unger,

Thank you for the opportunity to comment on the proposed amendment to the *Water Quality Control Plan for the Los Angeles Region* to incorporate a Total Maximum Daily Load for Debris (Debris TMDL) in the nearshore and offshore of Santa Monica Bay. The City of Agoura Hills has reviewed the proposed amendment and has the following three comments:

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Comment No. 1:

Findings regarding trash impairments within the Malibu Creek Watershed discussed in the *Draft Santa Monica Bay Nearshore and Offshore Debris TMDL* staff report dated July 30, 2010 and proposed Basin Plan Amendment (BPA) seem to contradict those of the *Trash Total Maximum Daily Load for the Malibu Creek Watershed* staff report dated February 14, 2008 and its associated BPA.

It appears the statement made in the Waste Load Allocation section, page 4, of the proposed BPA, "Zero trash is defined as no trash discharge into waterbodies within the Santa Monica Bay Watershed Management Area . . .," is intended to designate all waterbodies within the Malibu Creek Watershed as impaired for trash and place compliance points throughout the watershed. The BPA incorporating the Malibu Creek Trash TMDL found only certain waterbodies within the watershed as impaired for trash. The consequence of the proposed statement can be found in the Implementation section, page 6, of the proposed BPA, which requires the point source discharger to retrofit the Municipal Separate Storm Sewer System (MS4) with costly trash mitigation devices. We find this generalization that the entire Malibu Creek Watershed is impaired for trash an unsupported regulatory determination that lacks justification and merit that will cause the responsible agencies and jurisdictions to spend its valuable financial resources.

As stated in the Problem Statement of the proposed BPA, "Discharges of debris, including trash and plastic pellets, into Santa Monica Bay violate water quality objectives, impair

beneficial uses, and cause pollution and nuisance.” The target waterbody of the impairment is Santa Monica Bay, NOT waterbodies within the Santa Monica Bay Watershed Management Area. Therefore compliance within the Malibu Creek Watershed should be measured at the watershed’s discharge points to the Bay, namely Malibu Lagoon, and not throughout the watershed. Therefore, we respectfully request a modification to the Waste Load Allocations section, Page 4, of the proposed BPA with the following:

“Zero trash is defined as no trash discharged into ~~waterbodies within the Santa Monica Bay Watershed Management Area (WMA)~~ and then into Santa Monica Bay or on the shoreline of Santa Monica Bay.”

Comment No. 2:

The City respectfully submits that the proposed inclusion of the City of Agoura Hills in the requirements with respect to “plastic pellets” is not founded on any substantial evidence.

The TMDL dealing with “plastic pellets” sets waste load allocation of zero for such pellets and specifies that industrial facilities with SIC codes 282X, 305X, 308X, 39XX, 25XX, 3261, 3357, 373X and 2893 are typically associated with such pellet manufacturing. The tentative TMDL further states that “industrial facilities with the term ‘plastic’ in the facility or operator name may also be subject to this Waste Load Allocation. With respect to this requirement, the City does not have within its jurisdictional limits any such industry, nor does the City have industries with the name “plastic” in the facility or operator name within its jurisdictional limits. A query of the City’s business permit database identified eight facilities with an SIC code mentioned above. A survey of the establishments concluded that none of the eight facilities deal with plastic pellets.

Without any evidence that any of these industries exist or operate within the City’s jurisdictional limits, the proposal that the City prepare a “Plastic Pellet Monitoring and Reporting Plan” is a useless exercise and an unnecessary regulatory burden upon the City and its staff. How is the City to prepare a “monitoring” report for activities that do not take place within its jurisdictional limits?

The City is a strong advocate of environmental protections for water and other media. It has adopted and continues a very cooperative approach with the Regional Water Board on issues such as stormwater discharges. But, the City should not be subjected to a TMDL with associated Waste Load Allocations and associated reporting requirements when there is simply no evidence that the City is even a possible source of “plastic pellets.”

In addition, specific references to plastic pellets should be removed from this BPA as sufficient mechanisms are in place to mitigate this impairment. Industrial facilities that import, manufacture, process, transport, store, recycle, or otherwise handle plastic pellets must comply with the Industrial Storm Water General Permit. Adequate mitigation of plastic pellets should be achieved through the general permit, and NOT by placing additional requirements on local government to oversee industrial activities. Additionally, in accordance with requirements of the municipal NPDES permits (Nos. CAS004001 and CAS004002), sufficient ordinances are in place to address a release of plastic pellets to the MS4 as an illicit discharge. For example, the City of Agoura Hills Municipal Code 5505 states, “It is prohibited to commence, establish, use, maintain, or continue any illicit connection to the municipal separate storm sewer system or any illicit discharge to the municipal separate storm sewer system.”

Furthermore, the City's Municipal Codes 5508 contains the following that gives value to regulation under the State's Industrial Storm Water General Permit:

Requirements for industrial/commercial and construction activities - Each industrial discharge, discharger associated with construction activity, or other discharger described in any general storm water permit addressing such discharges, as may be issued by the U.S. Environmental Protection Agency, the state water resources control board, or the regional board shall comply with all requirements of such permit. Each discharger identified in an individual NPDES permit shall comply with and undertake all activities required by such permit. Proof of compliance with any such permit may be required in a form acceptable to the city engineer or his designated representative, prior to the issuance of any grading, building or occupancy permits, or any other type of permit or license issued by the city.
(Ord. No. 97-272, § 1, 4-16-97)

We suggest necessary modifications be made to the Industrial Storm Water General Permit to negate the need to specifically identify plastic pellets in the proposed BPA and place unnecessary requirements on local government.

Comment No. 3:

Due to the uncertain intention of Footnote No. 5 on Page 15 pertaining to Table 7-34.2, Task No. 1, it appears to indicate the "Responsible Jurisdictions", with the exception of Beverly Hills, Inglewood, West Hollywood, and Hidden Hills, are required to submit a Trash Monitoring and Reporting Plan. Since the City, in coordination with the County of Los Angeles and its watershed partners, submitted a TMRP on April 30, 2010, we believe that Footnote No. 5 also applies to these agencies. However, another interpretation of specifically referencing the Cities of Beverly Hills, Inglewood, West Hollywood, and Hidden Hills, could be that these agencies are not required to submit a Pellet Monitoring and Reporting Plan (PMRP). Please clarify the intention of "For PMRP ONLY" and the associated footnote.

We look forward to your consideration of our comments. If you have any questions, please feel free to contact the City's Water Quality Program manager, Kelly Fisher, at (818) 597-7338.

Respectfully submitted,

CITY OF AGOURA HILLS



Greg Ramirez
City Manager

cc: Craig Steele, City Attorney
Ramiro Adeva, City Engineer
Kelly Fisher, Public Works Project Manager
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